

REMARKS

Although Applicant disagrees with the restriction requirement set forth in the Office Action mailed December 7, 2004, Applicant provisionally elects Group I, claims 26-34 and 46-57 drawn to selecting at a mobile unit a transmitted data rate based on the ling quality without traverse. New claims 58-71 are added and non-elected claims 37-45 are cancelled, but Applicant retains the right to consideration of such cancelled claims during prosecution of the elected claims and/or to present such cancelled claims in a continuing/divisional application.


Claim 31 is amended to correct a typographical error. Claim 31 as originally presented incorrectly recited more than one claim. Claim 31 is amended and claims 58 and 59 are added reciting those features of claim 31. New claims 60-71 are added which are similar to claim 54.

Please charge any required fees not paid herewith or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

It is respectfully submitted that the pending claims define allowable subject matter. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Dated: December 29, 2004

Respectfully submitted,


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